

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

JAMES WILSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 2:19-cv-00088-JPH-MJD
	)	
WARDEN,	)	
	)	
Respondent.	)	

**ORDER DISCUSSING PENDING MOTIONS**

**I.**

On November 18, 2019, the petitioner moved for leave to use original record from the United States District Court on § 2254 Appeal. The motion asserts that a certificate of appealability has been issued in this case and that the petitioner has been granted leave to proceed *in forma pauperis*. Neither of these assertions are true. The Court denied a certificate of appealability when it denied the petitioner’s petition as an unauthorized successive petition. Dkt. 4. Therefore, the motion, dkt. [20], is **denied**.

**II.**

The petitioner seeks leave to proceed on appeal without prepayment of the appellate fees of \$505.00. An appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915; *see Coppedge v. United States*, 369 U.S. 438 (1962). “Good faith” within the meaning of § 1915 must be judged by an objective, not a subjective, standard. *See id.* At this time, there is no objectively reasonable argument the petitioner could present to argue that the disposition of his habeas petition was erroneous. His petition is successive and he has not received permission from the Seventh Circuit to pursue it. In pursuing an appeal, therefore, the plaintiff “is acting in bad faith . . . [because] to sue in bad faith means merely to sue

on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit.” *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Accordingly, his appeal is not taken in good faith, and for this reason his request for leave to proceed on appeal *in forma pauperis*, dkt. [21], is **denied**.

**SO ORDERED.**

Date: 11/21/2019



James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

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